



Revenue and Transportation Interim Committee

64th Montana Legislature

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TO: Legislative Council

FROM: Revenue and Transportation Interim Committee

RE: Request for Reconsideration of Rereferral of Revenue Bills Originating in Taxation Committees

DATE: [DATE]

The Revenue and Transportation Interim Committee has concerns about the rereferral of revenue bills that originate in the taxation committees to the House Appropriations Committee or the Senate Finance and Claims Committee.

The committee requests that Legislative Council consider the points discussed below to determine whether an alternate process could resolve the concerns raised. The memorandum includes background on the rereferral process and summarizes committee discussion about the rereferral process.

Background on Rereferral of Revenue Bills

Since the 2005 legislative session, some revenue bills that passed out of the House Taxation Committee and Senate Taxation Committee have been rereferred to the House Appropriations Committee or Senate Finance and Claims Committee. Data show that revenue bills originating in the taxation committees were not rereferred in the 1999 through 2003 legislative sessions and electronic data is not available prior to 1999.

In the past two legislative sessions, majority and minority leadership in the House and Senate has entered into informal and unwritten agreements that provide for the rereferral to the House Appropriations Committee or Senate Finance and Claims Committee of bills with fiscal note impacts above a certain threshold. The threshold in the House was \$25,000 in the 2013 and 2015 legislative sessions. The Senate threshold was \$50,000 in the 2015 legislative session. Informal agreements may have been used in legislative sessions prior to 2013 but collecting information on the agreements is difficult because the agreements are generally unwritten.

Revenue and Transportation Interim Committee Concerns

Nearly all members of the Revenue and Transportation Interim Committee serve on the House Taxation Committee or Senate Taxation Committee and take seriously our role of evaluating tax policy legislation with revenue impacts. We have concerns about whether revenue bills originating in the taxation committees should be rereferred to the House Appropriations Committee and the Senate Finance and Claims Committee and, if these bills are rereferred, the process used to set the rereferral terms.

Both are discussed in more detail below.

Should Revenue Bills Originating in Taxation Committees Be Rereferred?

During a committee discussion about the rereferral of revenue bills, committee members offered the following reasons rereferral of revenue bills originating in the taxation committees may not be the best policy:

- Rereferral of revenue bills takes responsibility away from the taxation committees. This may take the form of the House Appropriations Committee or Senate Finance and Claims Committee tabling a bill that was vetted by the committees with tax policy expertise. Another outcome may be that members of the policy committees vote to advance a bill knowing that the House Appropriations Committee or Senate Finance and Claims will "take care of" the bill later.
- The House Appropriations Committee and Senate Finance and Claims Committee hear testimony only on the fiscal implications of the legislation and not on the policy of the legislation. It is unclear how fiscal and policy considerations can be entirely separated. Members of the public have complained about the testimony limits.
- Rereferral of most revenue bills results in a longer, more cumbersome legislative process.
- The [status sheets](#) prepared by the Legislative Fiscal Division show the fiscal impact of revenue bills considered in the taxation committees.

Processes Related to Rereferral

The Revenue and Transportation Interim Committee also voiced concerns about the rereferral agreements and the process used by the Senate last legislative session to route rereferred bills.

The concerns with informal agreements to rerefer bills include the following:

- Because the agreements are informal and unwritten, they can be changed at any time or not consistently followed.
- Bills originating in the taxation committees with fiscal impacts above a certain level should not be automatically rereferred. Taxation committee bills with large fiscal impacts could still be rereferred to House Appropriations or Senate Finance and Claims on a case-by-case basis upon the motion of a legislator without a rereferral agreement.
- The thresholds used in the rereferral agreements may be too low.
- The motion to rerefer revenue bills to the House Appropriations Committee or Senate Finance and Claims Committee often includes multiple bills and the rereferrals are made "without objection." There is some concern this makes it more difficult for legislators to object to rereferral and request a vote of the body. Some committee members also stated that they are hesitant to object because the agreement is entered into by leadership from both parties.
 - The committee discussed a couple of possible remedies:
 - disallowing a rereferral "without object" for revenue bills originating in the taxation committees and instead requiring a vote; or
 - not rereferring a bill if a super majority (such as three-fourths) votes for the bill on second reading.

Senators who serve on the Revenue and Transportation Interim Committee were also dissatisfied with a change in Senate process that occurred on February 23, 2015. The House and Senate used essentially

the same process for routing revenue bills subject to the agreement at the beginning of the 2015 legislative session: after positive action by the policy committee, the body would hold second reading on the bill and, if passed by the body, rerefer the bill to House Appropriations or Senate Finance and Claims. The Senate revised its process to rerefer bills subject to the agreement directly to Senate Finance and Claims and to hold second reading only if the bill passed out of the Senate Finance and Claims Committee.

[House Rule 40-80](#)(2)(b)(i) provides that a bill that has passed second reading, been rereferred to the House Appropriations Committee, and reported from that committee without amendments may be placed on third reading with the consent of the majority leader, the minority leader, and the bill sponsor. The committee favored the Senate adopting a similar rule so that the process is consistent in both chambers.

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